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Application Number	09/387,443
Filing Date	September 1, 1999
First Named Inventor	William Kopaciewicz
Group Art Unit	1723
Examiner Name	Fortuna, A.
Attorney Docket Number	550P002Cont.2

Total Number of Pages in This Submission 3

ENCLOSURES (check all that apply)

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- ☒ Amendment / Reply
- ☐ After Final
- ☐ Affidavits/declaration(s)
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Remarks

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Firm or Individual name	Kevin S. Lemack Niels & Lemack
Signature	
Date	June 8, 2001

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

10
6-21-01

Applicant : William Kopaciewicz, et al.
Serial No. : 09/387,443
Filed : September 1, 1999
For : CAST MEMBRANE STRUCTURES FOR SAMPLE PREPARATION
Examiner : Fortuna, A.
Art Unit : 1723
Attorney :
Docket No. : 550P002Cont.2

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Kevin S. Lemack
Name of applicant, assignee, or Registered Representative

Signature

June 8, 2001
Date

Assistant Commissioner of Patents and Trademarks
Washington, D.C. 20231
Sir:

REMARKS

The Office Action dated May 17, 2001 has been received and carefully studied.

The Examiner rejects claims 1, 2, 4-6, 9-12 and 14-16 under 35 U.S.C. §102(b) as being anticipated by Mehl Ehrenfried, et al., WO 98/08594 and EP 0 826 412). The Examiner states that the '594 reference discloses providing microporous elements or membranes having adsorptive particles and provided at the end of a tubular housing or pipette, and that the polymer having bound adsorptive particles is provided continuous to the second open end of the housing or pipette. The Examiner also states that the '412 reference discloses the pipette having the membrane with adsorptive particles and a process for providing the membrane at the tip or end, as well as treated or derivatized silica particles or adsorptive particles. The Examiner also rejects claims 3, 7, 8, 13, 17 and 18 under 35 U.S.C. §103(a) as being unpatentable over Mehl Ehrenfried et al., and further in view of Kulprathipanja et al.

The rejections are respectfully traversed.

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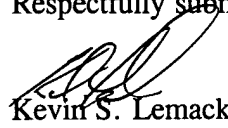
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Neither WO 98/08594, published on March 5, 1998, nor EP 0 826 412, published on March 4, 1998 is a reference against the present case. Indeed, 35 U.S.C. §102(e) relates solely to U.S. Patents as references; it is improper as a matter of law to apply this section of the statute to foreign documents.

The Examiner is apparently making a "hypothetical" rejection in order to provide applicant an opportunity to amend, since a corresponding U.S. patent may issue. Applicants respectfully submit that an amendment would be premature, since (1) Applicants have no access to the pending U.S. corresponding case and therefore cannot evaluate its content or its filing date; and (2) the pending corresponding U.S. case may never issue as a patent.

In view of the foregoing, it appears that resuspension is the only proper action at this time.

Respectfully submitted,



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